

Words struck out by the Social Services Committee are shown in italics within bold round brackets; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line of new matter.

*Hon. Mr McKay*

## DENTAL

### ANALYSIS

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## A BILL INTITULED

### An Act to consolidate and amend certain enactments of the General Assembly relating to the registration and control of dentists and the practice of dentistry

BE IT ENACTED by the General Assembly of New Zealand 5  
in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement—**(1) This Act may be cited as the Dental Act (**1962**) 1963.

(2) This Act shall come into force on the first day of 10  
January, nineteen hundred and (**sixty-three**) sixty-four.

**2. Interpretation—**(1) In this Act, unless the context otherwise requires,—

“Annual practising certificate” means a certificate under section 49 of this Act: 15

“Association” means the New Zealand Dental Association:

“Convener of Investigation Committees” or “Convener” means the person who is for the time being Convener of Investigation Committees in accordance with sub-section (1) of section 34 of this Act: 20

“Crown Solicitor” means a solicitor holding a warrant of appointment as such from the Governor-General; and includes any barrister or solicitor employed in the Crown Law Office: 25

“Dental Council” or “Council” means the Dental Council of New Zealand established under this Act:

“Dentist” means a person registered as a dentist under this Act:

“Director-General” means the Director-General of Health, and includes his deputy:

5 “Investigation Committee” means an Investigation Committee set up under section 36 of this Act:

10 “Investigation Committee member” means a person who is for the time being an Investigation Committee member in accordance with subsection (1) of section 34 of this Act:

“Medical practitioner” means a person for the time being registered as a medical practitioner under the Medical Practitioners Act 1950:

15 “Minister” means the Minister of Health:

“Practice of dentistry” includes—

20 (a) The performance of any operation, and the treatment of any diseases, deficiencies, or lesions, on or of the human teeth or jaws, and the correction of malpositions thereof and the performance of radiographic work in connection with the human teeth or jaws:

(b) The giving of any anaesthetic in connection with any operation on the human teeth or jaws:

25 (c) The mechanical construction or the renewal of artificial dentures or restorative dental appliances:

30 (d) The performance of any operation on, or the giving of any treatment, advice, or attendance to, any person, as preparatory to or for the purpose of or for or in connection with the fitting, insertion, fixing, constructing, repairing, or renewing of artificial dentures or restorative dental appliances:

35 (e) The performance of any such operation and the giving of any such treatment, advice, or attendance as is usually performed or given by dentists,— and the expression “to practise”, in relation to dentistry, has a corresponding meaning:

“Provisional certificate” means a provisional certificate issued under section 27 of this Act:

40 “Public hospital” means a hospital controlled by a Hospital Board established under the Hospitals Act 1957:

“Qualified radiographer” means a radiographer who has passed the examination required for the Diploma in the Section of Radiography or in the Section of Radiotherapy issued by the Society of Radiographers (London), or who is or has been a member of that Society, or who holds the X-ray Technicians Certificate issued by the Melbourne Technical College, or such other qualification appropriate to the work of a radiographer as is recognised by the Director-General as equivalent for the purposes of this Act to any of the aforesaid qualifications: 5

“Registered dentist” or “registered dental practitioner” means a person registered as a dentist under this Act; and “registered as a dental practitioner” has a corresponding meaning. 10

(2) For the purposes of this Act, and notwithstanding anything to the contrary in the Health Act 1956, the Director of the Division of Dental Health in the Department of Health shall be the deputy of the Director-General. 15

Cf. 1936, No. 57, s. 2 20

## PART I

### DENTAL COUNCIL

**3. Constitution of Dental Council**—(1) There shall be a Council to be called the Dental Council of New Zealand. 25

(2) The Council shall consist of—

(a) The Director-General:

(b) One dentist appointed by the Governor-General on the recommendation of the Minister:

(c) The Dean of the Faculty of Dentistry in the University of Otago: 30

(d) Two dentists elected in the prescribed manner by postal vote of those dentists whose registered addresses are in the North Island:

(e) One dentist elected in the prescribed manner by postal vote of those dentists whose registered addresses are in the South Island: 35

(f) One medical practitioner (being a person who is not employed in the Government service) nominated in that behalf by the New Zealand Branch of the British Medical Association and appointed by the Governor-General on the recommendation of the Minister. 40

(3) Subject to the provisions of this Act, every elected or appointed member of the Council shall hold office for a term of three years, but may from time to time be re-elected or reappointed, or may at any time be removed from office by the Governor-General for such cause as he thinks sufficient, or may at any time resign his office by writing addressed to the Secretary to the Council.

(4) If any elected or appointed member of the Council dies or resigns or is removed from office, the vacancy so created shall be deemed to be a casual vacancy.

(5) Every casual vacancy in the office of an elected or appointed member of the Council shall, as soon as practicable, be filled,—

(a) In the case of an elected member, by a member appointed by the Governor-General on the recommendation of the Minister:

(b) In the case of an appointed member, by the appointment of a new member in the same manner as in the case of the vacating member.

(6) Subject to the provisions of this Act, every member appointed to the Council under subsection (5) of this section shall hold office by virtue of that appointment for only the residue of the term of the vacating member.

(7) Unless he sooner vacates his office as aforesaid, every elected or appointed member of the Council shall continue in office until his successor comes into office, notwithstanding that the term for which he was elected or appointed may have expired.

(8) The powers of the Council shall not be affected by any vacancy in the membership thereof.

Cf. 1936, No. 57, s. 3

**4. Transitional provisions—**(1) Notwithstanding the reconstitution of the Council by section 3 of this Act, the Chairman and every other member of the Council who was in office immediately before the commencement of this Act shall, unless he sooner dies or resigns or is removed from office, continue in office as a member of the Council until the thirtieth day of June, nineteen hundred and ~~(sixty-three)~~ sixty-four.

(2) In the event of a casual vacancy in the office of any member of the Council arising before the said thirtieth day of June, nineteen hundred and ~~(sixty-three)~~ sixty-four, it shall be filled as if all the other provisions of this Act had not been passed.

(3) The first members of the Council to hold office under section 3 of this Act shall come into office on the first day of July, nineteen hundred and (sixty-three) sixty-four.

**5. Chairman of Council**—(1) The Council, at its first meeting held after the first day of July in the year nineteen hundred and (sixty-three) sixty-four, and in every third year thereafter, shall appoint one of its members to be Chairman of the Council. 5

(2) Unless the Chairman sooner resigns from that office or ceases to be a member of the Council, he shall hold the office of Chairman for the term or the remainder of the term for which the members of the Council are elected or appointed, and shall be eligible for reappointment. 10

(3) The Chairman shall preside at all meetings of the Council at which he is present. 15

(4) The Chairman appointed in each term shall hold office until his successor is appointed, or for such lesser period as he remains a member of the Council.

(5) If the Chairman ceases to be a member of the Council before the expiration of the period for which he has been appointed, the Council shall appoint some other member in his stead to be Chairman for the residue of the said period. 20

(6) If at any meeting of the Council the Chairman for the time being is not present, or there is no Chairman of the Council, the Deputy Chairman shall preside at the meeting; and if the Deputy Chairman also is not present at the meeting, or there is no Deputy Chairman, the Council shall appoint some member present to act as Chairman in respect of that meeting, and the person so appointed shall have and may exercise all the powers and functions of the Chairman for the purposes of that meeting. 30

(7) The Chairman of the Council shall have power to act in all matters on behalf of the Council when the Council is not meeting:

Provided that, when he acts on behalf of the Council in a matter which by this Act requires a decision of the Council, he shall first consult at least two other members of the Council and he shall report to the next meeting of the Council the action that he has taken. 35

Cf. 1936, No. 57, s. 5

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**6. Deputy Chairman of Council**—(1) The Council, at any meeting, may appoint one of its members to be the Deputy Chairman of the Council.

(2) Unless the Deputy Chairman sooner resigns from that office, or is appointed to be the Chairman of the Council, or ceases to be a member of the Council, he shall hold the office of Deputy Chairman of the Council for the term or the remainder of the term for which the members of the Council are elected or appointed, and shall be eligible for reappointment.

(3) If the Deputy Chairman is appointed to be the Chairman of the Council, or ceases to be a member of the Council, he shall thereupon vacate the office of Deputy Chairman.

(4) During any vacancy in the office of Chairman or in the absence of the Chairman from New Zealand or while the Chairman is incapacitated by sickness or otherwise, the Deputy Chairman shall have and may exercise and perform all the powers and duties of the Chairman.

**7. Secretary to the Dental Council**—There shall from time to time be appointed under the (*Public Service Act 1912*) State Services Act 1962 a Secretary to the Dental Council.

**8. Meetings of Council**—(1) The Council shall meet at least once in each calendar year at such times and places as the Chairman, or the Secretary to the Council on the direction of the Chairman or of the Director-General of Health, or any two members of the Council, may from time to time appoint.

(2) Notice of the time and place of every such meeting, signed by the Chairman or by the Secretary to the Council, shall be sent to every member of the Council at least fourteen clear days before the time appointed for that meeting, but failure to comply with the provisions of this subsection shall not invalidate anything done at any meeting of the Council.

(3) At any meeting of the Council four members shall form a quorum.

(4) Every question before the Council shall be determined by a majority of the votes of the members present at the meeting of the Council.

(5) The Chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(6) In the absence from any meeting of the Council of the Director-General and also of his deputy, any officer of the Department of Health may be appointed by the Director-General to act in his stead, and while so acting shall, for the purposes of this Act, have all the powers of the Director-General as a member of the Council. The fact that any officer

so acts as a member of the Council shall be sufficient evidence of his authority so to do.

Cf. 1936, No. 57, s. 6

**9. Procedure of Council**—(1) The Governor-General may from time to time, by Order in Council made on the advice of the Minister given upon the recommendation of the Council, make rules for regulating the procedure of the Council. 5

(2) In the absence of any such rules, or so far as the rules do not extend, the Council may regulate its procedure as it thinks fit. 10

Cf. 1936, No. 57, s. 8; 1950, No. 50, s. 7

**10. Fees and travelling allowances**—There shall be paid to the members of the Council, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly. 15

Cf. 1936, No. 57, s. 4

**11. Subcommittees of Council**—(1) The Council may appoint subcommittees consisting of two or more members of the Council, and may delegate to any such subcommittee any of the functions or powers of the Council under this Act: 20

Provided that the Council shall not delegate its power to hear a charge of professional misconduct, grave impropriety, or infamous conduct in a professional respect which has been made against a dentist registered under this Act or the holder of a provisional certificate. 25

(2) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power or the performance of any function by the Council. 30

(3) Unless and until any such delegation is revoked, it shall continue in force according to its tenor.

Cf. 1950, No. 50, s. 8

## PART II

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### REGISTRATION

**12. Qualifications for registration as dentist**—Except as provided in section 16 of this Act, every person shall be entitled to be registered under this Act who satisfies the Dental Council— 40



- 5 (a) That he holds the Certificate of Proficiency in Dental Surgery granted by the University of New Zealand or the degree of Bachelor of Dental Surgery of a University in New Zealand; and that, if he has been admitted *ad eundem* after the passing of this Act at any stage of the course prescribed for admission to the degree by virtue of which he is entitled to registration, he has been so admitted with the approval of the Dental Council:
- 10 (b) That he is the holder of a degree, diploma, or other qualification approved by the Dental Council and granted by any University or Institution other than a University in New Zealand after completing the full course of study of the subjects pertaining to the dental degree, diploma, or other qualification:
- 15 Provided that:
- (i) The Dental Council may refuse to approve any degree, diploma, or other qualification for the purposes of this paragraph unless it appears to the Dental Council that the graduates in dentistry of a University in New Zealand are, by virtue of their graduation and without further examination, entitled to be registered as dentists and to practise dentistry in the country in which is situated the University or other Institution by which that degree, diploma, or other qualification has been granted:
- 20 (ii) The Dental Council may, if it thinks fit, require that any holder of such a degree, diploma, or other qualification, before being registered, shall attend a course in dentistry and pass examinations therein, which course and examinations shall be approved by the Dental Council and the Council of each University in New Zealand that has power to confer the degree of Bachelor of Dental Surgery and shall be conducted by the Council of a University in New Zealand:
- 25 (iii) The Dental Council may refuse to approve any degree, diploma, or other qualification granted by any University or other Institution other than a University in New Zealand if the degree, diploma, or other qualification has been obtained in part by admission *ad eundem*, unless the Dental Council would have approved the *ad eundem* admission of the applicant to the corresponding stage of the course for the degree of Bachelor of Dental Surgery of a University in New Zealand.
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**13. Application for registration**—(1) Every person who is entitled to be registered as a dentist under this Act may make application on the prescribed form to the Secretary to the Council to be registered accordingly, and shall at the same time provide such evidence of his professional ability and of his personal character as may be required by the Council. 5

(2) On receipt by the Secretary of any such application and evidence, he shall forthwith submit the same to the Council for its consideration.

Cf. 1936, No. 57, s. 10

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**14. Applications to be considered by Council**—(1) At its first meeting after any such application has been submitted to it or as soon thereafter as practicable, the Council shall consider that application, and shall give such directions to the Secretary to the Council in respect thereof as it thinks fit and as are authorised by this Act. 15

(2) Before giving any such directions the Council may, if it thinks fit, examine on oath or otherwise the person making the application, or any person objecting thereto, or any other person, with respect to the application; and for the purposes of any such examination the Chairman for the purposes of any meeting of the Council may administer an oath to any person appearing before that meeting. 20

(3) The Council may also, if it thinks fit, require any person to verify by statutory declaration any statement made by him with respect to any application before the Council, or with respect to any objection to any such application. 25

Cf 1936, No. 57, s. 11

**15. Directions of Council to be observed**—(1) If the Council, after considering any such application as aforesaid, is of opinion that the applicant is entitled to be registered, it shall so direct, and the Secretary to the Council shall thereupon register that person, and shall notify him accordingly. 30

(2) If the Council, after considering any such application as aforesaid, is of the opinion that the applicant is not entitled to be registered, it shall direct accordingly, and the Secretary shall thereupon refuse to register that person, and shall notify him accordingly. 35

Cf. 1936, No. 57, s. 12

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**16. Restrictions on registration**—No person shall be entitled as of right to be registered as a dentist under this Act, if he is not a fit person to be so registered by reason of the fact that—

- 5 (a) He has been at any time convicted of any offence punishable by imprisonment for a term of two years or upwards; or
- (b) He is otherwise not of good fame or character.

Cf. 1950, No. 50, s. 16

**17. Appeal to Supreme Court from refusal to register applicant**—If any applicant who has been refused registration as a dentist is dissatisfied with the direction of the Council, he may apply to the Supreme Court for an order to the Secretary to the Council that the applicant be so registered under this Act, and thereupon the Court may order that the person applying  
15 be so registered accordingly, or may make any such other order as it thinks fit, or may refuse to make any order in the matter, and in any such case the costs of the proceedings shall be in the discretion of the Court.

Cf. 1936, No. 57, s. 13

**18. Penalty for fraudulently obtaining registration**—Every  
20 person who wilfully procures or attempts to procure himself or any other person to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either orally or  
25 in writing, commits an offence and is liable on conviction on indictment to imprisonment for a term not exceeding three years.

Cf. 1936, No. 57, s. 16; 1950, No. 50, s. 27

**19. Mode of registration**—(1) Registration as a dentist shall  
30 be effected by the entry in the register kept for the purpose by the Secretary to the Council of the following particulars:

- (a) The name of the person registered;
- (b) Particulars as to the qualification or qualifications by  
virtue whereof he is registered;
- 35 (c) His postal address (including the name of the street and the number of the house, where possible);
- (d) The date of registration; and
- (e) Such other particulars as may be prescribed.

(2) The Secretary to the Council shall, on application in that behalf made to him at any time by a person so registered and on payment of the prescribed fee, issue to that person a certificate of registration.

(3) In the absence of proof to the contrary, a certificate of registration issued under this section shall be sufficient evidence of the registration of the person to whom the certificate relates as at the date thereof, and a certificate under the hand of the Secretary to the Council that any person is not registered as a dentist shall be sufficient evidence of that fact.

Cf. 1936, No. 57, s. 14

**20. Temporary registration of persons visiting New Zealand for teaching or experience—**(1) Notwithstanding anything to the contrary in this Act, if the Council is satisfied—

(a) That any person is or will be temporarily visiting New Zealand and will be required to practise dentistry at any institution or place in New Zealand, whether for the purpose of demonstrating clinical procedures or as the holder of a fellowship or under a foreign aid programme or in any circumstances whatsoever; and

(b) That, whether or not the person is the holder of a Commonwealth or foreign degree or diploma in dentistry, he has sufficient knowledge and experience for the efficient practice of dentistry in that institution or place, subject to such restrictions (if any) as the Council may specify,—

the Council may issue to him a certificate of temporary registration entitling him to practise as a registered dentist in such institution or place, subject to such restrictions (if any), and for such period, as may be specified in the certificate.

(2) The names of persons to whom certificates of temporary registration are issued under this section shall appear in a separate subdivision of the register.

(3) The provisions of sections 13 to 16 and section 19 of this Act shall apply to every application for temporary registration under this section.

(4) No fee shall be payable in respect of any application for temporary registration under this section or in respect of the issue of any certificate thereunder.

(5) The Council may from time to time, in its discretion, extend the period specified in any certificate under this section if it is satisfied that the circumstances in which it was issued still exist. Any such extension shall be endorsed on the certificate, which for that purpose shall be surrendered by the holder to the Secretary to the Council.

(6) During the period specified in any such certificate, or any such extension thereof, the holder of the certificate shall, unless it has been cancelled under this section, be deemed for the purposes of this Act to be registered as a dentist under this Act.

(7) The Secretary to the Council may cancel any such certificate at any time on the direction of the Council.

(8) Every person commits an offence and is liable on summary conviction to a fine not exceeding one hundred pounds who, being the holder of a certificate of temporary registration issued under this section, practises dentistry otherwise than in the institution or place, and subject to the restrictions, specified in the certificate.

Cf. 1950, No. 50, s. 25A

**21. Notification of death of dentist**—Every Registrar of Births and Deaths, on registration of the death of any person who is registered as a dentist under this Act, shall forthwith transmit by post to the Secretary to the Council a notification in writing of that death, with the particulars of the date and place of death; and on the receipt of that notification the Secretary to the Council shall erase the name of the deceased person from the register.

Cf. 1936, No. 57, s. 17

**22. Changes of address**—(1) Every person who is registered as a dentist, and who at any time changes his address as appearing in the register, shall, within one month thereafter, send to the Secretary to the Council a notice of his new address specifying where possible the name of the street and the number of the house, and the Secretary shall thereupon correct the entry in the register relating to that person accordingly.

(2) Every such person who fails to comply with the provisions of subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding ten pounds.

(3) Notwithstanding anything in section 14 of the Summary Proceedings Act 1957, any information in respect of any such offence may be laid at any time within three years from the date on which the person changed his address.

Cf. 1936, No. 57, s. 18

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**23. Name may be erased from register if registered person cannot be found, etc.**—(1) The Secretary to the Council may at any time, and shall if the Council so directs, send to any person who is registered as a dentist, by registered letter addressed to him at his address as appearing in the register, an inquiry as to whether or not he desires to have his name retained in the register or has ceased to practise. 10

(2) If no reply is received to that letter within six months from the posting thereof, or if the letter is not delivered and is returned to the Secretary to the Council, or if the said person registered as a dentist so requests, the Secretary shall, if the Council so directs, remove from the register the name of the person to whom the letter was so sent. 15

(3) If the Council has reason to believe that any such person has died outside New Zealand, it may direct the Secretary to the Council to erase the name of that person from the register, and the Secretary shall erase that name accordingly. 20

(4) Any person whose name has been removed from the register in pursuance of this section may apply to the Secretary to the Council to have his name restored to the register, and on proof to the satisfaction of the Council that his name has been *(removed by mistake the Secretary shall, if so directed by the Council)* so removed the Secretary shall restore to the register the name of that person: 25 30

Provided that, if any person is aggrieved by the refusal of the Council to restore his name to the register upon an application in that behalf, he shall have the same right of appeal as if his application had been an application for registration under section 13 of this Act. 35

Cf. 1936, No. 57, s. 19

**24. Additional degrees and diplomas may be entered in register**—Every person who is registered as a dentist, and who obtains any degree or diploma other than that by virtue whereof he is registered, may apply to the Council to amend 40 the register so far as it relates to the qualifications of that person; and on any such application the Council shall, if

satisfied that the applicant is entitled to the degree or diploma in respect of which the application is made and that the degree or diploma in respect of which the application is made is of sufficient standing and relevance to warrant it  
5 being included in the register, direct the Secretary to the Council to amend the register accordingly, and the Secretary shall thereupon insert in the register particulars as to that degree or diploma. Honorary degrees or diplomas shall be specified as such.

10 Cf. 1936, No. 57, s. 20

**25. Amendment of register if person wrongfully registered or where particulars incorrect—**(1) If any person has been registered as a dentist by reason of any false or fraudulent representation or declaration, made either orally or in writing,  
15 or if any person not entitled to be registered as aforesaid has been so registered, the Council shall cause the name of that person to be erased from the register, and the fact of that erasure shall be notified by the Secretary to the Council in the *Gazette*.

20 (2) If any particulars appearing in the register in respect of the name, qualifications, or address of any such person are proved to the satisfaction of the Council to be or are to the knowledge of the Council false or erroneous in any respect, the Council shall direct the Secretary to the Council to erase  
25 those particulars from the register, or otherwise to amend the register, and the Secretary shall thereupon amend the register accordingly.

(3) The provisions of subsection (2) of this section shall apply notwithstanding the fact that at the time when the  
30 entry in the register was made the person was actually possessed of the qualifications particulars whereof appear in the register, or that at that time the entry was otherwise correct.

(4) Any person whose name has been erased from the  
35 register in pursuance of subsection (1) of this section, or any person the particulars of whose qualifications have been altered in pursuance of subsection (2) of this section, may apply to the Supreme Court for an order to the Secretary to the Council for the restoration of his name to the register, or

for the restoration to the register of any particulars as to his qualifications; and thereupon the Court may make such order in the matter as it thinks fit or may refuse to make any order, and in any such case the costs of the proceedings shall be in the discretion of the Court.

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Cf. 1936, No. 57, s. 21

**26. Removal of name from register of dentists after removal from other register—**(1) If the Council is satisfied that the name of any person who has been registered as a dentist in New Zealand because he possessed the qualification mentioned in paragraph (b) of section 12 of this Act has since been removed from any register of dentists in the country in which his foreign degree, diploma, or qualification was granted, it may, with the consent in writing of the Attorney-General, by writing under the hand of the Chairman, direct the removal of his name from the register, and the name shall be removed accordingly.

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(2) Notice of its intention to direct the removal of any name from the register pursuant to this section shall be given by the Council to the person affected, either personally or, if his address is unknown, by advertisement in such manner as the Council thinks sufficient, and his name shall not be removed from the register before the expiration of one month from the date of the notice.

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(3) Any person whose name has been removed from the register by direction of the Council acting or purporting to act under the authority of this section may appeal to the Supreme Court, which may make such order in the matter as it thinks just, having regard to the merits of the case and to the public welfare.

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(4) If the name of any medical practitioner who is also registered as a dentist under this Act is at any time after the commencement of this Act removed from the register of medical practitioners, the Council, with the consent of the Attorney-General, may remove his name from the register of dentists.

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(5) Any person whose name is removed from the register of dentists under the authority of subsection (4) of this section shall be entitled, on application, to be reregistered if his name is at any time thereafter restored to the register of medical practitioners.

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Cf. 1936, No. 57, ss. 23, 24



27. **Provisional certificates**—(1) Notwithstanding anything to the contrary in this Act, the Secretary to the Council shall, if so directed by the Chairman of the Council, issue to a person who has applied for registration as a dentist under this Act a provisional certificate which shall entitle that person, pending the consideration of his application by the Council, to practise as a dentist to the extent to which he would be entitled if he had been registered in the manner specified in his application.
- 10 (2) Every such certificate shall, unless it has been cancelled or has lapsed, remain in force for the period stated therein, not exceeding six months, but any such certificate may from time to time be renewed.
- 15 (3) The holder of any such certificate shall, while the certificate remains in force, be deemed for all purposes to be registered as a dentist.
- (4) The Secretary to the Council may cancel any provisional certificate at any time on the direction of the Council.
- Cf. 1936, No. 57, s. 25

- 20 **28. Notification of disability and suspension from practice**—(1) In this section—
- “Hospital” means—
- 25 (a) Any institution or separate institution (within the meaning of the Hospitals Act 1957):
- (b) Any licensed hospital within the meaning of Part V of the Hospitals Act 1957:
- (c) Any institution within the meaning of the Mental Health Act 1911:
- 30 “Medical Superintendent”, in relation to any hospital, means—
- (a) In the case of any institution or separate institution (within the meaning of the Hospitals Act 1957), the medical officer (if any) who is in charge of that hospital:
- 35 (b) In the case of any licensed hospital within the meaning of Part V of the Hospitals Act 1957, the manager of that hospital if he is a registered medical practitioner:
- 40 (c) In the case on any institution within the meaning of the Mental Health Act 1911, the Medical Superintendent of that institution.

(2) In any case where any person who is a registered dentist or the holder of a provisional certificate is a patient of a hospital of which there is a Medical Superintendent, if the Medical Superintendent considers that the person is (owing to mental or physical disability) unable to perform his professional duties satisfactorily, and that because he may attempt to perform those duties, it is necessary in the public interest to prevent him from so doing, the Medical Superintendent shall forthwith give written notice to the Secretary to the Council of all the circumstances. 5  
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(3) In any case where any person who is a registered dentist or the holder of a provisional certificate is not a patient of a hospital of which there is a Medical Superintendent, if any registered medical practitioner is in attendance on that person and considers that the person is (owing to mental or physical disability) unable to perform his professional duties satisfactorily and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from so doing, the medical practitioner in attendance on that person shall forthwith give written notice to the Secretary to the Council of all the circumstances. 15  
20

(4) In any case where any Medical Superintendent or registered medical practitioner contemplates giving any such written notice to the Secretary to the Council, he may seek whatever medical advice, whether psychiatric or otherwise, he considers appropriate to assist him in forming his opinion. Any written notice thereafter so given shall mention any difference between any such advice and the views of the Medical Superintendent or registered medical practitioner as set out in the notice. 25  
30

(5) Upon receipt of any such notice, the Secretary to the Council shall forthwith take all steps necessary to have it considered by the Council or by a committee of the Council set up under subsection (9) of this section.

(6) Whether or not the Secretary to the Council has received any such written notice as aforesaid in connection with the matter, if the Council or any committee set up by it under subsection (9) of this section is satisfied that any person who is a registered dentist or the holder of a provisional certificate is (owing to mental or physical disability) unable to perform his professional duties satisfactorily, and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from so doing, 35  
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the Council or committee may, by writing under the hand of the Chairman or Deputy Chairman, suspend that person from practice as a registered dentist or as the holder of a provisional certificate, as the case may be.

5 (7) Any such suspension shall take effect forthwith upon its being made, but may at any time be revoked—

(a) By the Council or any committee set up by it under subsection (9) of this section; or

(b) By the Supreme Court either—

10 (i) On an appeal by the person so suspended to that Court made within twenty-eight days after the date on which the Council or Committee has suspended that person or has last refused to revoke the suspension on an application made to it in that behalf by that person; or

15 (ii) On an application by the person so suspended to that Court in any case where the person has applied in writing to the Secretary to the Council for the revocation of the suspension under paragraph (a) of this subsection and has not been  
20 advised of the decision of the Council or any such committee in connection with his application within twenty-eight days after the date on which the application was delivered to the Secretary.

25 (8) While any person is so suspended from practice under this section, that person shall be deemed for the purposes of this Act, other than Part IV, not to be a registered dentist or the holder of a provisional certificate, as the case may be.

30 (9) The Council may from time to time, for the purposes of this section, appoint a committee comprising the Chairman or Deputy Chairman of the Council and at least one other member of the Council. The appointment of any such committee may be revoked by the Council at any time.

**29. Register to be open to inspection**—The register kept  
35 by the Secretary to the Council under this Act shall at all reasonable times be open to inspection by the public at the office of the Secretary to the Council in Wellington.

Cf. 1950, No. 50, s. 28

## PART III

## PRACTICE OF DENTISTRY

**30. Prohibition of practice of dentistry by unregistered persons**—(1) Except as otherwise expressly provided in this Act, no person, unless he is registered as a dentist under this Act or is the holder of a provisional certificate, shall practise as a dentist or hold himself out, whether directly or by implication, as practising or as being entitled to practise dentistry. 5

(2) Any person who acts in contravention of the provisions of this section commits an offence and is liable, on summary conviction, in respect of each such offence, to a fine not exceeding two hundred pounds. 10

(3) Nothing in this section shall operate to prevent—

(a) The performance of any dental operation, or the doing of any other act that is within the meaning of the expression “the practice of dentistry”, by any medical practitioner in the ordinary course of his practice as such or in any case where the services of a dentist are not obtainable: 15 20

(b) The extraction of a tooth by any person where the case is urgent and no medical practitioner or dentist is available and the operation is performed without the application of any general or local anaesthetic: 20

(c) The performance in the School Dental Service of dental work for pre-school children and children attending any primary or intermediate school or department of a school in accordance with conditions approved by the Minister: 25

(d) The carrying-on, in accordance with conditions approved by the Minister, of the practice of dentistry at any public hospital: 30

(e) The carrying-on of the practice of dentistry by dental students at any dental school which is approved for the purposes of this section by the Council of any University in New Zealand: 35

(f) The performance, in relation to the practice of dentistry, of any radiographic work at any public hospital or by any medical practitioner or by any qualified radiographer: 40

- (g) The mechanical construction or the renewal of artificial dentures or restorative dental appliances by any person acting under the direction of a dentist:

5

*New*

(h) The repair of an artificial denture by a person other than a registered dentist.

Cf. 1936, No. 57, s. 26

**31. Unregistered person not to practise in name or on behalf of dentist**—(1) Subject to the provisions of section 30 of this Act, no dentist shall permit any unregistered person to carry on the practice of dentistry in his name or on his behalf, whether on the premises where the dentist is practising or elsewhere.

15 (2) Every dentist who acts in contravention of this section commits an offence and is liable on summary conviction to a fine not exceeding two hundred pounds.

Cf. 1936, No. 57, s. 27

**32. Companies not to carry on practice of dentistry except as authorised**—(1) If any company carries on the practice of dentistry otherwise than as authorised by this section, the company and every director of the company and every person concerned in the management of the company commits an offence, and is liable on summary conviction to a fine not exceeding one hundred pounds and to a further fine not exceeding five pounds for every day during which the offence continues after the conviction for any such offence of the company or of any director or other person as aforesaid.

30 (2) If any company satisfies the Council that it had been carrying on the practice of dentistry in New Zealand for not less than seven months immediately before the first day of June, nineteen hundred and thirty-seven, and that (except as provided in section 33 of this Act) all its members are registered dentists, it may lawfully continue to carry on the practice of dentistry in accordance with the provisions of this section, but not otherwise.

35 (3) The authority conferred by this section shall cease and determine—

40 (a) If any person other than a registered dentist, or the personal representative (acting under the authority conferred by section 33 of this Act) of a person who at his death was a registered dentist, becomes a member of any such company; or

(b) If the membership of the company is increased beyond its number on the first day of June, nineteen hundred and thirty-seven.

(4) No company shall carry on the practice of dentistry under the authority of this section at any time after the expiration of ten years from the date when the last of its members as at the first day of June, nineteen hundred and thirty-seven, has ceased to be a member. 5

(5) Where any company is carrying on the practice of dentistry pursuant to the authority of this section, the names and descriptions of all the members of that company shall at all times be legibly and conspicuously displayed in or on the premises in which the practice of dentistry is being carried on. 10

(6) For the purpose of this section the term "company" means a company formed and registered under the Companies Act 1955 or any former Companies Act, and includes any corporation other than a company so formed and registered. 15

Cf. 1936, No. 57, s. 28

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**33. Powers of personal representative of deceased dentist—**  
 On the death (whether before or after the commencement of this Act) of any dentist who at the time of his death is actually carrying on the practice of dentistry, or is a member of a company to which subsection (2) of section 32 of this Act applies, it shall be lawful for his personal representative (with a view to the disposal of the goodwill or the interest in the company) to continue the practice of dentistry under the management of a dentist, or to remain a member of the company while it is under the management of a dentist, for not more than five years from the date of death in the case of a dentist who dies after the commencement of this Act, or for not more than ten years from the date of death in the case of a dentist who has died before the commencement of this Act; and, if it is shown to the satisfaction of the Council that it is or may be impracticable satisfactorily to dispose of the practice or interest within the period, for such further period or periods as may be allowed by the Council. 25  
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## PART IV

## DISCIPLINE WITHIN THE DENTAL PROFESSION

*Investigation Committees***34. Appointment of Investigation Committee members—**

5 (1) Four registered dentists who are not members of the Council shall from time to time, on the recommendation of the Dental Council, be appointed in accordance with this section to be Investigation Committee members, and one of those members shall be so appointed as Convener of Investigation Committees.

10 (2) The Investigation Committee members shall be appointed by the Governor-General, and shall hold office for a period of three years, and may from time to time be re-appointed, or may be at any time removed from office by the Governor-General for such cause as he thinks sufficient, or may at any time resign his office by writing addressed to the Secretary to the Council.

15 (3) If any Investigation Committee member dies or resigns or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.

20 (4) Notwithstanding anything to the contrary in this section, every Investigation Committee member, unless he sooner dies or vacates office as aforesaid, shall continue to hold office until his successor comes into office.

**35. Complaints of professional misconduct (*grave impropriety*) or infamous conduct—**(1) Except as otherwise provided by rules made under section 37 of this Act, or in any case where the Solicitor-General otherwise directs, every person who seeks to make a formal complaint that any person who is registered as a dentist, or who is the holder of a certificate of temporary registration under section 20 of this Act or of a provisional certificate, has been guilty of professional misconduct, (*grave impropriety*), or infamous conduct in a professional respect, shall make the complaint to a Crown Solicitor in the Supreme Court district in which the incident involved in the complaint arose:

Provided that, if for the time being there is no available Crown Solicitor in the district, the complaint may be made to the Solicitor-General who shall refer it to such Crown Solicitor as he thinks fit.

(2) Every such complaint (other than a complaint made by a Court) shall be in writing, and shall, if the Crown Solicitor to whom it is made or referred so requires, be supported by such statutory declarations as that Crown Solicitor may require. 5

(3) Where any Crown Solicitor has received any written complaint under this section and such statutory declarations as he may require under subsection (2) of this section, he shall make such preliminary investigations as may be necessary to satisfy himself that the complaint is of such a nature and is supported by such evidence as to warrant investigation by an Investigation Committee, and upon being so satisfied he shall notify the Convener of Investigation Committees of the complaint. 10 15

Cf. 1950, No. 50, s. 43B

### **36. Investigation Committee to investigate and report—** 20

(1) Upon being notified by a Crown Solicitor of any such complaint, the Convener of Investigation Committees shall, in accordance with this section, set up an Investigation Committee; and that Committee shall investigate the complaint and report its finding to the Solicitor-General. 25

(2) The Investigation Committee to investigate and report on any complaint shall consist of:

(a) The Chairman of the Committee, who shall be the Crown Solicitor who advised the Convener of the complaint, or such other Crown Solicitor as the Solicitor-General may at any time appoint to be Chairman of the Committee: 30

(b) Two other members (being persons who at the time of their appointments are Investigation Committee members) appointed for the purposes of the investigation by the Convener: 35

Provided that, if any such member dies or is for any reason unable or unwilling to act as a member, another person qualified for appointment may be so appointed in his place. 40



(3) Before an Investigation Committee reports its findings in respect of a complaint to the Solicitor-General or makes any final decision in respect of the findings—

5 (a) The Chairman of the Committee shall post or deliver to the person concerned:

(i) Copies of the written complaint (if any) and of all statutory declarations that have been made in support of the complaint; and

10 (ii) A notice setting out any further particulars that may be necessary to disclose the substance of the complaint, and inviting the person concerned, within such period (not being less than fourteen days) as may be specified in the notice, to give to the Chairman of the Committee any written explanation he may wish to offer and to advise the said Chairman if he wishes to be heard by the Committee:

15 (b) The Investigation Committee shall allow the time specified in the notice to elapse, and shall give the person concerned reasonable opportunity to be heard if he wishes to do so, and shall give due consideration to any explanation he may make.

20 (4) The report to the Solicitor-General of the findings of the Investigation Committee shall be made by the Chairman of the Committee, and shall set out:

(a) The facts as ascertained by a majority of the members of the Committee; and

(b) An outline of the reasons for any member of the Committee not being in accord with the majority.

30 (5) The report shall be accompanied by copies of all statutory declarations and statements relating to the complaint that have been received by the Investigation Committee.

35 (6) Where the report shows that the majority of the members of the Investigation Committee recommend the taking of any further action in respect of the complaint, it shall be the duty of the Solicitor-General to take that action or arrange for it to be taken.

Cf. 1950, No. 50, s. 43c

40 **37. Procedure of Investigation Committees—**(1) Subject to the provisions of this Act, the Council may from time to time make rules for regulating the procedure of Investigation Committees, and prescribing classes of cases which need not be referred to any such Committee before they are considered  
45 by the Council.

(2) Subject to the provisions of this Act, in the absence of any such rules, or so far as the rules do not extend, every Investigation Committee may regulate its procedure as it thinks fit.

Cf. 1950, No. 50, s. 43D

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**38. Remuneration of members of Investigation Committees and expenses of witnesses**—There shall be paid, out of money appropriated by Parliament for the purpose,—

- (a) To any Crown Solicitor who is not a member of the Public Service, his reasonable costs for investigating any complaint that is made or referred to him under this Act and for acting as Chairman of an Investigation Committee: 10
- (b) To the other members of every Investigation Committee, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly as if they were members of a statutory Board within the meaning of that Act: 15 20
- (c) To every witness giving evidence or intending to give evidence at the hearing of any inquiry by any Investigation Committee, such sum as he may be allowed under section 45 of this Act. 20

Cf. 1950, No. 50, s. 43E

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#### *Disciplinary Powers of Council*

**39. Disciplinary powers of Council**—(1) If any person who is registered as a dentist—

- (a) Is convicted by any Court in New Zealand of any offence for which the maximum punishment is not less than two years' imprisonment; or 30
- (b) After due inquiry, made on the application or with the consent of the Solicitor-General, is judged by the Council to have been guilty of professional misconduct, (*grave impropriety*), or infamous conduct in a professional respect— 35

the Council may, if it thinks fit, exercise in respect of that person all or any of the disciplinary powers conferred on it by subsection (2) of this section.

(2) The disciplinary powers which the Council may so exercise in respect of any such person, if it thinks fit, shall be as follows: 40

- (a) The Council may, by writing under the hand of the Chairman, impose a penalty upon the person not exceeding one hundred pounds:

5            Provided that no such penalty may be imposed under this paragraph in any case where the Council is proceeding under paragraph (a) of subsection (1) of this section, or where the Council is inquiring into any act or omission which constitutes an offence for which the person has been convicted by any  
10            Court and which is punishable by imprisonment or fine:

- (b) The Council may, by writing under the hand of the Chairman, censure the person:

15            (c) With the consent in writing of the Attorney-General and subject to subsection (4) of this section, the Council may, by writing under the hand of the Chairman, suspend the person from practice as a dentist for a period not exceeding twelve months:

20            (d) With the consent in writing of the Attorney-General and subject to subsection (4) of this section, the Council may apply to the Supreme Court for an order for the removal of the name of that person from the register, and the Court may make such order in the matter as it thinks fit:

25            (e) The Council may, by writing under the hand of the Chairman, order that person to pay any costs and expenses of and incidental to the inquiry by the Council and any preliminary investigation made by any Crown Solicitor or Investigation Committee.

30            (3) In giving or withholding consent under paragraph (c) of subsection (2) of this section, the Attorney-General shall consider only the gravity and nature of the impropriety or conduct charged, and not the question whether the person has in fact been guilty of the impropriety or conduct.

35            (4) No person shall be suspended from practice as a dentist, and the name of no person shall be removed from the register,—

40            (a) Under paragraph (a) of subsection (1) of this section by reason of any offence committed before the date of his registration if at that date the Council was aware of his conviction in respect of that offence; or

(b) By reason only of his having been guilty of professional misconduct.

(5) In any inquiry under paragraph (b) of subsection (1) of this section, any finding of fact which is shown to have been made in any proceedings under the Divorce and Matrimonial Causes Act 1928, being proceedings in the Supreme Court of New Zealand or on appeal from a decision in any such proceedings, shall be conclusive evidence of the fact found. 5

(6) If any University or institution, having granted to any person a degree or diploma or other qualification registerable under this Act, exercises any power conferred by law of striking off the name of that person and notifies to the Council the fact of the striking off,— 10

(a) The Secretary to the Council shall make a note of the fact in the register:

(b) If the said University or institution notifies to the Council the findings of fact on which the decision to strike off the name was based, the findings may (if the Council thinks fit) be treated, for the purpose of any inquiry under this section, as sufficient evidence of the facts found in the absence of proof to the contrary. 20

(7) No person shall be deemed guilty of professional misconduct, (*grave impropriety*), or of infamous conduct in a professional respect, by reason only of his having adopted and practised any theory of dentistry or dental surgery, if in so doing he has acted honestly and in good faith. 25

(8) Every monetary penalty imposed, and all costs and expenses payable, under this section shall be recoverable as a debt due to the Crown, and shall be paid into the Public Account and form part of the Consolidated Fund. 30

(9) While any order of suspension under this section remains in force, the person shall be deemed for the purposes of this Act, other than Part IV, not to be a registered dentist, but forthwith on the expiry of the order his rights and privileges as a registered dentist, shall be revived as from the date of the expiry. 35

(10) There shall be a right of appeal to the Supreme Court in accordance with section 40 of this Act from an order of suspension or censure or the imposition of a penalty or of a liability to pay costs and expenses under this section. 40

(11) An order of suspension or censure shall not take effect, and no penalty or costs or expenses shall be payable, in any case until the expiration of twenty-eight days after the date of the notification by the Council to the person affected of the making of the order. If within the said period of twenty- 45

eight days the person gives due notice of appeal to the Supreme Court, the order shall not take effect, and no penalty or costs or expenses shall be payable, unless and until it is confirmed by the Supreme Court or the appeal is for any  
5 reason dismissed by that Court:

Provided that, unless the Supreme Court otherwise orders, the period of suspension specified in the order shall commence, and the penalty of costs or expenses specified in the order shall be payable, on the day when the order commences to have effect.  
10

(12) In any order under this section for the removal from the register of the name of any such person, the Court may fix a time after which the person whose name is so removed as aforesaid may apply for reregistration under this Act. At  
15 the expiration of that time the person whose name has been so removed may apply for reregistration, and all the provisions of this Act as to registration shall, so far as they are applicable, apply to reregistration under this section.

(13) If the Court does not fix any such time, the Council  
20 may refuse to consider any such application for such time as it thinks fit:

Provided that any person aggrieved by the refusal of the Council to consider that application may apply to the Court for an order directing the Council to consider that applica-  
25 tion, or directing the Secretary to the Council to enter in the register the name of that person, and thereupon the Court may make such order in the matter as it thinks fit.

Cf. 1950, No. 50, s. 44

**40. Appeals to Supreme Court**—(1) Every such appeal to  
30 the Supreme Court under subsection (11) of section 39 of this Act shall be by way of rehearing; and, unless the Court otherwise directs, on any such rehearing the record of the evidence adduced at the hearing before the Dental Council shall be placed before the Court, and it shall not be permissible to  
35 recall witnesses who gave evidence before the Council or to call other witnesses.

(2) On any such appeal the Court may make such order or recommendation as it thinks proper, having regard to the merits of the case and to the public welfare.

40 Cf. 1950, No. 50, s. 45

**41. Enforcement of contracts of service entered into by dental bursars**—(1) This section applies to any contract entered into by any person with the Crown (whether before or after the commencement of this Act) whereby that person has undertaken to serve for such period or periods as may be specified in the contract in either or both of the following types of employment, namely, employment as a registered dentist in the service of a Hospital Board, or such employment (whether in the service of a Hospital Board or otherwise) as the Director-General of Health may require.

(2) Where any registered dentist has committed a wilful breach of any such undertaking in a contract to which this section applies, the Dental Council shall have and may exercise the powers conferred on it by section 39 of this Act other than its powers under paragraphs (c) and (d) of subsection (2) of that section; and the provisions of this Act shall, so far as they are applicable and with any necessary modifications, apply accordingly as if such a breach were professional misconduct.

(3) Where a registered dentist has committed any such wilful breach, it is hereby declared, without limiting any other powers of the Minister or of the Dental Council, that the Minister may, on the recommendation of the Dental Council, for such period not exceeding six months as the Minister on such recommendation may fix, exclude the registered dentist from participation in any scheme under Part III of the Social Security Act 1938 whereby payments are made from the Social Security Fund, whether to the registered dentist or to any other person, in respect of the provision of dental benefits by registered dentists.

Cf. 1950, No. 50, s. 33

#### *Procedure*

**42. Legal assessors**—The Dental Council may appoint a legal assessor who may be present at any inquiry or appeal and may then or at any time previously or subsequently advise the Council on matters of law, procedure, and evidence relating thereto.

Cf. 1950, No. 50, s. 47

**43. Dental Council and Investigation Committee may require evidence to be given—**(1) The Dental Council or any Investigation Committee, by notice in writing under the hand of its Chairman or Secretary, may require any person to  
5 attend and give evidence before it at any inquiry under this Act, and to produce all books and documents in that person's custody or under his control relating to the subject-matter of any such inquiry.

(2) The Council or Committee may require any such  
10 evidence to be given on oath, and either orally or in writing, and for that purpose the Chairman of the Council or Committee may administer an oath.

(3) Every person who without lawful justification refuses or fails to give evidence when required to do so by the Dental  
15 Council or any Investigation Committee, or to answer truly and fully any question put to him by the Council or Committee, or to produce to the Council or Committee any book or document required of him, commits an offence against this section, and is liable on summary conviction to a fine not  
20 exceeding one hundred pounds.

Cf. 1950, No. 50, s. 48

**44. Immunity of witnesses and counsel—**Witnesses and counsel shall have the same privileges and immunities in relation to inquiries before the Dental Council or any Investigation  
25 Committee as if they were proceedings in a Court of law.

Cf. 1950, No. 50, s. 49

**45. Witnesses' expenses—**Every witness giving evidence or intending to give evidence at the hearing of any inquiry under this Act shall be entitled in the discretion of the  
30 Dental Council or Investigation Committee to be paid, out of money appropriated by Parliament for the purpose, such sum for his expenses and loss of time as the Council or Committee may determine.

Cf. 1950, No. 50, s. 50

**46. Publication of orders—Where—**

(a) An order has been made against any registered dentist by the Dental Council on any inquiry under this Act, and no appeal therefrom has been brought within the time limited in that behalf; or

(b) An order has been made against any registered dentist by the Supreme Court under this Act,—  
the Secretary to the Council shall, if the Council in its discretion so directs, cause a notice stating the effect of the order to be sent to every registered dentist. 5

Cf. 1950, No. 50, s. 51

**47. Protection of Dental Council, Investigation Committee, and other persons**—Neither the Dental Council, nor any Investigation Committee, nor any member or servant of the same, shall be under any criminal or civil liability whatsoever in respect of anything done or omitted to be done or of any words spoken or written at or for the purposes of the hearing of any inquiry or other proceedings under this Act unless it is proved to the satisfaction of the Court before which any proceedings are taken that the defendant in the proceedings has acted in bad faith. 10 15

Cf. 1950, No. 50, s. 52

## PART V

### GENERAL PROVISIONS

**48. Fees**—(1) The Secretary to the Council, or any officer of the Department of Health authorised in that behalf by the Director-General of Health, as the case may be, shall take and receive such fees in respect of such matters under this Act as are from time to time prescribed by regulations under this Act. 20 25

(2) Until the appropriate fee has been paid, the Secretary to the Council or any such officer of the Department of Health may decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable. 30

(3) All fees payable to the Dental Council shall be paid to the Public Account and form part of the Consolidated Fund.

Cf. 1950, No. 50, s. 53

**49. Annual practising certificates**—(1) In this section the term “year” means the period of twelve months beginning on the first day of June and ending with the thirty-first day of May next following. 35



(2) Notwithstanding anything to the contrary in the foregoing provisions of this Act, no person registered as a dentist shall be entitled to practise dentistry unless he is the holder of an annual practising certificate issued in accordance with this section.

(3) Every person who practises dentistry in breach of subsection (2) of this section commits an offence, and is liable on summary conviction to a fine not exceeding five pounds for every day during which the offence continues.

(4) Subject to the payment of the prescribed fee, the Secretary, on application in that behalf by any registered dentist, shall issue to him an annual practising certificate, and any such certificate shall be in force during the year in respect of which it is issued:

Provided that, if at any time during the currency of any such certificate the holder thereof ceases to be registered as a dentist, the certificate shall be deemed to be cancelled.

(5) Every person entitled to receive an annual practising certificate under this section shall be deemed to have obtained that certificate when he has duly applied to the Secretary for the same and has paid the prescribed fee.

(6) Nothing in this section shall apply with respect to—

(a) Any dentist in so far as he is engaged in the practice of dentistry as a servant of the Crown; or

(b) Any person holding a provisional certificate; or

(c) Any person who is engaged in the practice of dentistry only in relation to his duties as a member of the Faculty of Dentistry in any University in New Zealand; or

(d) Any person permitted to practise dentistry under section 20 of this Act.

Cf. 1936, No. 57, s. 32

**50. Inspection of dental premises—**(1) If so requested by the Council in any case, the Director-General may at any time by himself, or by any person authorised by him in that behalf, enter and inspect any premises used by a registered dentist for the practice of dentistry, *(and any premises which he has reason to believe or suspect is being used for the practice of dentistry)* and every part of any such premises.

(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding one hundred pounds who wilfully obstructs, hinders, or resists any person in the exercise of the powers conferred on him by or under this section.

Cf. 1957, No. 40, s. 144

**51. Offences by unregistered person**—Every person commits an offence and is liable on summary conviction to a fine not exceeding ten pounds for each day during which the offence continues who, not being registered under this Act, uses or causes or permits to be used in connection with his business any written words, titles, or initials, or any abbreviation of any words, titles, or initials, implying that he is registered under this Act or that he is qualified to practise dentistry. 5

Cf. 1936, No. 57, s. 30; 1950, No. 50, s. 55 (1) 10

**52. Appointments to be held only by registered dentists**—  
 (1) Except as provided in section 20 of this Act, no person shall hold any appointment as a dental surgeon or other dental officer in the New Zealand armed forces, or in any institution or separate institution under the Hospitals Act 1957, or in any mental hospital, or in any prison, or in any other public institution, or to any friendly or other society for affording mutual relief in sickness, infirmity, or old age, or as a Dental Officer in the Department of Health or in any other Government Department, unless he is a registered dentist. 15 20

(2) Every person who accepts or holds any appointment for which he is disqualified by reason of this section commits an offence and is liable on summary conviction to a fine not exceeding one hundred pounds.

Cf. 1950, No. 56, s. 56 25

**53. References to dentists in other Acts**—All references in any Act to a dentist, or registered dentist, or duly qualified dentist shall, unless a different intention appears, be deemed to be references to a registered dental practitioner under this Act or, subject to the provisions of this Act, to a person holding a provisional certificate for the time being in force under section 27 of this Act. 30

Cf. 1950, No. 50, s. 60

**54. Regulations**—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 35

- (a) Prescribing the form of and the method of keeping the register of dentists:
- (b) Prescribing the forms of application, certificates, licences, and other documents required under this Act: 40

- (a) The Council may, by writing under the hand of the Chairman, impose a penalty upon the person not exceeding one hundred pounds:

5        Provided that no such penalty may be imposed under this paragraph in any case where the Council is proceeding under paragraph (a) of subsection (1) of this section, or where the Council is inquiring into any act or omission which constitutes an offence for which the person has been convicted by any  
10        Court and which is punishable by imprisonment or fine:

- (b) The Council may, by writing under the hand of the Chairman, censure the person:

15        (c) With the consent in writing of the Attorney-General and subject to subsection (4) of this section, the Council may, by writing under the hand of the Chairman, suspend the person from practice as a dentist for a period not exceeding twelve months:

20        (d) With the consent in writing of the Attorney-General and subject to subsection (4) of this section, the Council may apply to the Supreme Court for an order for the removal of the name of that person from the register, and the Court may make such order in the matter as it thinks fit:

25        (e) The Council may, by writing under the hand of the Chairman, order that person to pay any costs and expenses of and incidental to the inquiry by the Council and any preliminary investigation made by any Crown Solicitor or Investigation Committee.

30        (3) In giving or withholding consent under paragraph (c) of subsection (2) of this section, the Attorney-General shall consider only the gravity and nature of the impropriety or conduct charged, and not the question whether the person has in fact been guilty of the impropriety or conduct.

35        (4) No person shall be suspended from practice as a dentist, and the name of no person shall be removed from the register,—

40        (a) Under paragraph (a) of subsection (1) of this section by reason of any offence committed before the date of his registration if at that date the Council was aware of his conviction in respect of that offence;  
or

(b) By reason only of his having been guilty of professional misconduct.

(5) In any inquiry under paragraph (b) of subsection (1) of this section, any finding of fact which is shown to have been made in any proceedings under the Divorce and Matrimonial Causes Act 1928, being proceedings in the Supreme Court of New Zealand or on appeal from a decision in any such proceedings, shall be conclusive evidence of the fact found. 5

(6) If any University or institution, having granted to any person a degree or diploma or other qualification registerable under this Act, exercises any power conferred by law of striking off the name of that person and notifies to the Council the fact of the striking off,— 10

(a) The Secretary to the Council shall make a note of the fact in the register:

(b) If the said University or institution notifies to the Council the findings of fact on which the decision to strike off the name was based, the findings may (if the Council thinks fit) be treated, for the purpose of any inquiry under this section, as sufficient evidence of the facts found in the absence of proof to the contrary. 15 20

(7) No person shall be deemed guilty of professional misconduct, (*grave impropriety*), or of infamous conduct in a professional respect, by reason only of his having adopted and practised any theory of dentistry or dental surgery, if in so doing he has acted honestly and in good faith. 25

(8) Every monetary penalty imposed, and all costs and expenses payable, under this section shall be recoverable as a debt due to the Crown, and shall be paid into the Public Account and form part of the Consolidated Fund. 30

(9) While any order of suspension under this section remains in force, the person shall be deemed for the purposes of this Act, other than Part IV, not to be a registered dentist, but forthwith on the expiry of the order his rights and privileges as a registered dentist, shall be revived as from the date of the expiry. 35

(10) There shall be a right of appeal to the Supreme Court in accordance with section 40 of this Act from an order of suspension or censure or the imposition of a penalty or of a liability to pay costs and expenses under this section. 40

(11) An order of suspension or censure shall not take effect, and no penalty or costs or expenses shall be payable, in any case until the expiration of twenty-eight days after the date of the notification by the Council to the person affected of the making of the order. If within the said period of twenty- 45

eight days the person gives due notice of appeal to the Supreme Court, the order shall not take effect, and no penalty or costs or expenses shall be payable, unless and until it is confirmed by the Supreme Court or the appeal is for any  
5 reason dismissed by that Court:

Provided that, unless the Supreme Court otherwise orders, the period of suspension specified in the order shall commence, and the penalty of costs or expenses specified in the order shall be payable, on the day when the order com-  
10 mences to have effect.

(12) In any order under this section for the removal from the register of the name of any such person, the Court may fix a time after which the person whose name is so removed as aforesaid may apply for reregistration under this Act. At  
15 the expiration of that time the person whose name has been so removed may apply for reregistration, and all the provisions of this Act as to registration shall, so far as they are applicable, apply to reregistration under this section.

(13) If the Court does not fix any such time, the Council  
20 may refuse to consider any such application for such time as it thinks fit:

Provided that any person aggrieved by the refusal of the Council to consider that application may apply to the Court for an order directing the Council to consider that appli-  
25 cation, or directing the Secretary to the Council to enter in the register the name of that person, and thereupon the Court may make such order in the matter as it thinks fit.

Cf. 1950, No. 50, s. 44

**40. Appeals to Supreme Court**—(1) Every such appeal to  
30 the Supreme Court under subsection (11) of section 39 of this Act shall be by way of rehearing; and, unless the Court otherwise directs, on any such rehearing the record of the evidence adduced at the hearing before the Dental Council shall be  
35 placed before the Court, and it shall not be permissible to recall witnesses who gave evidence before the Council or to call other witnesses.

(2) On any such appeal the Court may make such order or recommendation as it thinks proper, having regard to the merits of the case and to the public welfare.

40 Cf. 1950, No. 50, s. 45

**41. Enforcement of contracts of service entered into by dental bursars**—(1) This section applies to any contract entered into by any person with the Crown (whether before or after the commencement of this Act) whereby that person has undertaken to serve for such period or periods as may be specified in the contract in either or both of the following types of employment, namely, employment as a registered dentist in the service of a Hospital Board, or such employment (whether in the service of a Hospital Board or otherwise) as the Director-General of Health may require.

(2) Where any registered dentist has committed a wilful breach of any such undertaking in a contract to which this section applies, the Dental Council shall have and may exercise the powers conferred on it by section 39 of this Act other than its powers under paragraphs (c) and (d) of subsection (2) of that section; and the provisions of this Act shall, so far as they are applicable and with any necessary modifications, apply accordingly as if such a breach were professional misconduct.

(3) Where a registered dentist has committed any such wilful breach, it is hereby declared, without limiting any other powers of the Minister or of the Dental Council, that the Minister may, on the recommendation of the Dental Council, for such period not exceeding six months as the Minister on such recommendation may fix, exclude the registered dentist from participation in any scheme under Part III of the Social Security Act 1938 whereby payments are made from the Social Security Fund, whether to the registered dentist or to any other person, in respect of the provision of dental benefits by registered dentists.

Cf. 1950, No. 50, s. 33

#### *Procedure*

**42. Legal assessors**—The Dental Council may appoint a legal assessor who may be present at any inquiry or appeal and may then or at any time previously or subsequently advise the Council on matters of law, procedure, and evidence relating thereto.

Cf. 1950, No. 50, s. 47

**43. Dental Council and Investigation Committee may require evidence to be given**—(1) The Dental Council or any Investigation Committee, by notice in writing under the hand of its Chairman or Secretary, may require any person to  
5 attend and give evidence before it at any inquiry under this Act, and to produce all books and documents in that person's custody or under his control relating to the subject-matter of any such inquiry.

(2) The Council or Committee may require any such  
10 evidence to be given on oath, and either orally or in writing, and for that purpose the Chairman of the Council or Committee may administer an oath.

(3) Every person who without lawful justification refuses or fails to give evidence when required to do so by the Dental  
15 Council or any Investigation Committee, or to answer truly and fully any question put to him by the Council or Committee, or to produce to the Council or Committee any book or document required of him, commits an offence against this section, and is liable on summary conviction to a fine not  
20 exceeding one hundred pounds.

Cf. 1950, No. 50, s. 48

**44. Immunity of witnesses and counsel**—Witnesses and counsel shall have the same privileges and immunities in relation to inquiries before the Dental Council or any Investigation  
25 Committee as if they were proceedings in a Court of law.

Cf. 1950, No. 50, s. 49

**45. Witnesses' expenses**—Every witness giving evidence or intending to give evidence at the hearing of any inquiry under this Act shall be entitled in the discretion of the  
30 Dental Council or Investigation Committee to be paid, out of money appropriated by Parliament for the purpose, such sum for his expenses and loss of time as the Council or Committee may determine.

Cf. 1950, No. 50, s. 50

**46. Publication of orders**—Where—

(a) An order has been made against any registered dentist by the Dental Council on any inquiry under this Act, and no appeal therefrom has been brought within the time limited in that behalf; or

(b) An order has been made against any registered dentist by the Supreme Court under this Act,—  
the Secretary to the Council shall, if the Council in its discretion so directs, cause a notice stating the effect of the order to be sent to every registered dentist. 5

Cf. 1950, No. 50, s. 51

**47. Protection of Dental Council, Investigation Committee, and other persons**—Neither the Dental Council, nor any Investigation Committee, nor any member or servant of the same, shall be under any criminal or civil liability whatsoever in respect of anything done or omitted to be done or of any words spoken or written at or for the purposes of the hearing of any inquiry or other proceedings under this Act unless it is proved to the satisfaction of the Court before which any proceedings are taken that the defendant in the proceedings has acted in bad faith. 10 15

Cf. 1950, No. 50, s. 52

## PART V

### GENERAL PROVISIONS

**48. Fees**—(1) The Secretary to the Council, or any officer of the Department of Health authorised in that behalf by the Director-General of Health, as the case may be, shall take and receive such fees in respect of such matters under this Act as are from time to time prescribed by regulations under this Act. 25

(2) Until the appropriate fee has been paid, the Secretary to the Council or any such officer of the Department of Health may decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable. 30

(3) All fees payable to the Dental Council shall be paid to the Public Account and form part of the Consolidated Fund.

Cf. 1950, No. 50, s. 53

**49. Annual practising certificates**—(1) In this section the term “year” means the period of twelve months beginning on the first day of June and ending with the thirty-first day of May next following. 35



(2) Notwithstanding anything to the contrary in the foregoing provisions of this Act, no person registered as a dentist shall be entitled to practise dentistry unless he is the holder of an annual practising certificate issued in accordance with  
5 this section.

(3) Every person who practises dentistry in breach of subsection (2) of this section commits an offence, and is liable on summary conviction to a fine not exceeding five pounds for every day during which the offence continues.

10 (4) Subject to the payment of the prescribed fee, the Secretary, on application in that behalf by any registered dentist, shall issue to him an annual practising certificate, and any such certificate shall be in force during the year in respect of which it is issued:

15 Provided that, if at any time during the currency of any such certificate the holder thereof ceases to be registered as a dentist, the certificate shall be deemed to be cancelled.

(5) Every person entitled to receive an annual practising certificate under this section shall be deemed to have obtained that certificate when he has duly applied to the Secretary for the same and has paid the prescribed fee.

(6) Nothing in this section shall apply with respect to—

20 (a) Any dentist in so far as he is engaged in the practice of dentistry as a servant of the Crown; or

25 (b) Any person holding a provisional certificate; or

(c) Any person who is engaged in the practice of dentistry only in relation to his duties as a member of the Faculty of Dentistry in any University in New Zealand; or

30 (d) Any person permitted to practise dentistry under section 20 of this Act.

Cf. 1936, No. 57, s. 32

**50. Inspection of dental premises—**(1) If so requested by the Council in any case, the Director-General may at any  
35 time by himself, or by any person authorised by him in that behalf, enter and inspect any premises used by a registered dentist for the practice of dentistry, *(and any premises which he has reason to believe or suspect is being used for the practice of dentistry)* and every part of any such premises.

40 (2) Every person commits an offence and is liable on summary conviction to a fine not exceeding one hundred pounds who wilfully obstructs, hinders, or resists any person in the exercise of the powers conferred on him by or under this section.

45 Cf. 1957, No. 40, s. 144

**51. Offences by unregistered person**—Every person commits an offence and is liable on summary conviction to a fine not exceeding ten pounds for each day during which the offence continues who, not being registered under this Act, uses or causes or permits to be used in connection with his business any written words, titles, or initials, or any abbreviation of any words, titles, or initials, implying that he is registered under this Act or that he is qualified to practise dentistry. 5

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(2) Every person who accepts or holds any appointment for which he is disqualified by reason of this section commits an offence and is liable on summary conviction to a fine not exceeding one hundred pounds.

Cf. 1950, No. 56, s. 56 25

**53. References to dentists in other Acts**—All references in any Act to a dentist, or registered dentist, or duly qualified dentist shall, unless a different intention appears, be deemed to be references to a registered dental practitioner under this Act or, subject to the provisions of this Act, to a person holding a provisional certificate for the time being in force under section 27 of this Act. 30

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- (a) Prescribing the form of and the method of keeping the register of dentists:
- (b) Prescribing the forms of application, certificates, licences, and other documents required under this Act: 40

- 5 (c) Prescribing the fees payable in respect of registration under this Act and in respect of the restoration of names after their removal from the register and in respect of any other alteration of or addition to the register; and also prescribing fees for the issue of certificates of registration, provisional certificates, and other certificates, and for copies of certificates or licences, and for inspections of the register:
- 10 (d) Providing for the issue to dentists of annual practising certificates, and prescribing the fee, not exceeding one pound, payable in respect thereof:
- (e) Regulating the procedure of the Council:
- (f) Prescribing the manner of holding elections of members to be elected to the Council:
- 15 (g) Regulating advertising in relation to the practice of dentistry:
- (h) Prescribing the amount of the fines, not exceeding fifty pounds in any case, that may be imposed for offences against any regulations made under the authority of this section:
- 20 (i) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

25 **55. Repeals**—The enactments specified in the Schedule to this Act are hereby repealed.

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## SCHEDULE

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### ENACTMENTS REPEALED

- 1936, No. 57—The Dentists Act 1936. (1957 Reprint, Vol. 3, p. 879.)
- 1941, No. 26—The Statutes Amendment Act 1941: Section 9. (1957 Reprint, Vol. 3, p. 899.)
- 1951, No. 79—The Fees and Travelling Allowances Act 1951: So much of the Second Schedule as relates to the Dentists Act 1936. (1957 Reprint, Vol. 3, p. 882.)
- 1960, No. 96—The Health Amendment Act 1960: So much of the Schedule as relates to the Dentists Act 1936.
- 1961, No. 54—The Universities Act 1961: So much of the First Schedule as relates to the Dentists Act 1936.